

RECEIVED**OCT 02 2014****IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO****JOHN P. HEHMAN, CLERK
COLUMBUS, OHIO**Jacques S. Greene
(Enter above the full name of the plaintiff in this
action)Kimberly Shumate
Ohio State University
Associate General Counsel
1590 North High Street Suite 500
Columbus, OH 43201
(Enter the above full name of the defendant or
defendants in this action)Case No. 14 CV 1809**Judge Economus**COMPLAINT UNDER
42 U.S.C. 2000e-5(f)(1)**MAGISTRATE JUDGE DEEVERS****I. Parties**

(In item A below, place your name in the first blank and place your present address and telephone number (or telephone number where you can be reached) where indicated in the following blanks.)

A. Name of Plaintiff Jacques S. Greene
Address 2807 Golf Green dr Apt B
Telephone No. 614-817-9027

Under 42 U.S.C. 2000e-5(f)(1) suit may only be "brought against the respondent named in the charge" of unlawful employment practice you filed with the Ohio Civil Rights Commission and/or the Equal Employment Opportunity Commission. ATTACH A COPY OF THE CHARGE YOU FILED WITH THE OHIO CIVIL RIGHTS COMMISSION AND/OR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION TO THIS COMPLAINT. In item B below list the name and address of the employer against whom you filed the charge. In item C below, list the name and address of any other person(s) you named in the charge you filed with the Ohio Civil Rights Commission and/or the Equal Employment Opportunities Commission.

B. Defendant Kimberly Shumate Associate General Counsel
Ohio State University
(As named in the attached charge)
Address Office of Legal Affairs
1590 North High Street Suite 500
Columbus OH 43201

C. Additional defendants (as named in the attached charge):

II. The Court has jurisdiction under 42 U.S.C. §2000e-5(f)(1).

- A. The date the notice of right to sue was issued by the Equal Employment Opportunity commission was Feb 26, 2014.
- B. The date you received the notice of right to sue was Feb 28, 2014.
- C. ATTACH A COPY OF THE NOTICE OF RIGHT TO SUE TO THIS COMPLAINT.

III. Statement of Claim

The Equal Employment Opportunities Act provides, in part, that

- (a) it shall be an unlawful employment practice for an employer --
- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. §2000e-2(a)(1). Other unlawful employment practices are set out in 42 U.S.C. §2000e-2(a) through (d).

State here as briefly as possible the *facts* of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an extra sheet if necessary.

Pressured to be fired or Resign for⁴ Leged Misuse
of Sick Time.

IV. Relief

(State briefly exactly what you want the Court to do for you. Make no arguments. Cite no cases or statutes.)

I Just Want My Money of \$100,75.00 not My
Job Back

Juquias S. Green
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

Oct 2, 2014
(Date)

Juquias S. Green
(Signature of Plaintiff)

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 846-2012-26114 </div> </div>	
Ohio Civil Rights Commission and EEOC State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) Mr. Jacques S. Greene		Home Phone (Incl. Area Code) (614) 532-5466	Date of Birth 03-02-1960
Street Address City, State and ZIP Code 2807 Golf Green Dr Apt B, Columbus, OH 43224			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name OHIO STATE UNIVERSITY		No. Employees, Members 500 or More	Phone No. (Include Area Code) (614) 292-4164
Street Address City, State and ZIP Code 2000 Tuttle Park Pl, Columbus, OH 43210			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify)</div> </div>			DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 03-01-2011 10-18-2011 <input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I began working for Respondent in February 1991.</p> <p>In October 2010, I received a medical certification from Respondent indicating my FMLA request was granted from October 6, 2010 through October 5, 2011.</p> <p>I was verbally told that I had the option to be terminated or resign in lieu of termination. I was given these options because Respondent stated I was missing too many days of work and I was reporting tardy to work. I argued that my FMLA should have covered my absence and I was not reporting late to work on daily basis.</p> <p>I believe I was discriminated against when I was forced to resign in lieu of termination, due to my race, Black, in violation of Title VII of the Civil Rights Act of 1964, as amended and due to my disability, in violation of Title I of the Americans with Disabilities Act of 1990, as amended.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Date: <u>11-15-12</u> Signature: <u>J. S. Greene</u>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Jacques S. Greene
2807 Golf Green Dr Apt B
Columbus, OH 43224

From: Cleveland Field Office
EEOC, AJC Fed Bldg
1240 E 9th St, Ste 3001
Cleveland, OH 44199

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2012-26114

Ms. Blackmon,
Investigator

(216) 522-2251

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Spencer H. Lewis, Jr.

Spencer H. Lewis, Jr.
District Director

FEB 26 2014

Enclosures(s)

(Date Mailed)

cc:

Kimberly Shumate
Associate General Counsel
OHIO STATE UNIVERSITY
Office of Legal Affairs
1590 N High St Suite 500
Columbus, OH 43201

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 -- not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



**U.S. Equal Employment Opportunity Commission
Cleveland Field Office**

FEB 25 2014

EEOC, AJC Fed Bldg
1240 E 9th St, Ste 3001
Cleveland, OH 44199
(216) 522-2001
TTY (216) 522-8441
Fax: (216) 522-7395

Respondent: Ohio State University
EEOC Charge No.: 846-2012-26114
FEPA Charge No.:

Jacques S. Greene
2807 Golf Green Dr., Apt B
Columbus, OH 43224

Dear Mr. Greene:

In 1995 our Agency moved toward a more strategic approach to enforcement with the adoption of new priority Charge handling procedures. These procedures require our staff to make careful decisions about charges to ensure that our limited available resources are focused upon those charges which we believe, based upon our extensive experience in interpreting the laws that we enforce, are most likely to result in findings of violation(s). While reasonable persons may differ in their views of the available evidence pertaining to individual charges, our final determinations must comport with our interpretation of the available relevant evidence and the laws we enforce.

We have reviewed your allegations and all documents submitted by you and the Respondent. We have determined that the evidence does not indicate that a violation of the statutes enforced by the Commission has occurred and that additional processing by the Agency will not likely result in a finding in your favor.

As the record reflects, you alleged you were discriminated against because of your disability, in violation of the Americans with Disabilities Act (ADAAA), as amended and your race/black in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII).

To establish a prima facie case for any type of discrimination under the ADAAA, you must generally demonstrate: (1) you are a qualified individual with a physical or mental impairment that significantly limits one or more major life activities (including major bodily functions); (2) you notified Respondent of your disability and need for accommodation; (3) there is an accommodation that would allow you to participate in the application process; to perform the essential functions of the job; or to enjoy equal benefits and privileges of employment and would not have posed an undue hardship to the employer; and (4) Respondent failed to provide an effective accommodation.

To establish a prima facie case for any type of discrimination under Title VII, you must generally demonstrate: (1) you are a member of a protected class; (2) you suffered an adverse employment action; (3) you were performing your job duties at a level that met your employer's legitimate expectations; and (4) that other non-class members were treated materially different.

You are reminded that as the Charging Party you must either produce direct evidence of discrimination or establish a prima facie case of discrimination through circumstantial evidence. To establish a prima facie case of discrimination based on circumstantial evidence, the Charging Party must set forth evidence, which if left otherwise unexplained, would support an inference of discrimination. If the Charging Party establishes a prima facie case, the burden of production then shifts to the Respondent to articulate a legitimate non-discriminatory reason for its challenged actions. If the Respondent does so, it prevails, unless the Charging Party proves, by a preponderance of the evidence, that the legitimate reasons articulated by the Respondent were not its true reasons but were a pretext for discrimination (i.e., being a member of, being regarded as or being associated with a member of an EEO protected group was the motivating reason for the action at issue).

The record reflects that Respondent was aware of your disability and you had been given an accommodation in the form of FMLA each time for a 12 month period on an intermittent basis for 12 weeks. This means that for 12 months you can use FMLA for covered disability needs not to exceed 12 weeks of accrued time. Under the law, Respondent has to engage in the interactive process when an employee makes them aware of a disability. Respondent did its due diligence and provided you a reasonable accommodation. If you feel that there is more to the FMLA issue you would

There is no evidence of discrimination set forth to support the allegation that you were discriminated against because of your disability, in violation of the Americans with Disabilities Act (ADAAA), as amended and your race/black in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII).

The enclosed dismissal notice issued to the parties explains that while we are not certifying that the employer (or respondent) is in compliance with the laws we enforce, our investigation has revealed insufficient evidence to warrant further processing of the charge. The dismissal notice describes your right to pursue the matter by filing a lawsuit in federal court within 90 days of your receipt of the notice.

Should you wish to obtain a copy of the administrative file for this charge, please write to the following address to make such a request. You must do so within the above-referenced 90-day period, which can be extended if you do file a lawsuit in court concerning this matter. Please be advised that there may be a fee if you make such a request for file disclosure. Furthermore, please note that failure to receive requested documents in a timely manner does not extend the time period for filing a lawsuit.

File Disclosure Unit
EEOC – Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107

We regret that we could not be of further service to you in this matter.

Respectfully,

Ms. Blackmon

FEDERAL INVESTIGATOR
EEOC, Cleveland Field Office
1240 E. Ninth Street, Suite 3001
Cleveland, OH 44199
phone: 216.522.2251
fax: 216.522.7395

Office Hours: Monday – Wednesday, 8:30 a.m. - 4:00 p.m.
www.eeoc.gov

Enclosure: Dismissal and Notice of Rights